



Senate

General Assembly

February Session, 2016

File No. 480

Senate Bill No. 400

Senate, April 5, 2016

The Committee on Commerce reported through SEN. HARTLEY, J. of the 15th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT ESTABLISHING THE 7/7 PROGRAM TO ENCOURAGE THE REDEVELOPMENT OF BROWNFIELDS AND UNDERUTILIZED PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2016, and applicable to taxable and*
2 *income years commencing on or after January 1, 2016*) (a) As used in this
3 section, the following terms shall have the following meanings unless
4 the context clearly indicates another meaning:

5 (1) "7/7 participant" means an eligible owner whose application
6 submitted pursuant to subsection (c) of this section has been approved
7 by the commissioner;

8 (2) "7/7 site" means the real property redeveloped and utilized or
9 proposed to be redeveloped and utilized by a 7/7 participant in
10 accordance with this section;

11 (3) "Brownfield" has the same meaning as provided in section 32-760
12 of the general statutes;

13 (4) "Commissioner" means the Commissioner of Economic and
14 Community Development;

15 (5) "Completion of the brownfield remediation" means the
16 completed remediation of a 7/7 site by a 7/7 participant as evidenced
17 by the filing of either a verification or interim verification that meets
18 the requirements of section 22a-133x, 22a-133y or 22a-134 of the
19 general statutes;

20 (6) "Eligible owner" means any person, firm, limited liability
21 company, nonprofit or for-profit corporation or other business entity
22 that holds title to (A) a brownfield, provided such owner did not
23 establish, create or maintain a source of pollution to the waters of the
24 state for purposes of section 22a-432 of the general statutes and is not
25 responsible pursuant to any other provision of the general statutes for
26 any pollution or source of pollution on such brownfield; or (B) real
27 property that has been abandoned or underutilized for ten or more
28 years; and

29 (7) "Qualified expenditures" means the expenditures associated with
30 the investigation, assessment and remediation of a brownfield,
31 including, but not limited to: (A) Soil, groundwater and infrastructure
32 investigation; (B) assessment; (C) remediation of soil, sediments,
33 groundwater or surface water; (D) abatement; (E) hazardous materials
34 or waste removal and disposal; (F) long-term groundwater or natural
35 attenuation monitoring; (G) (i) environmental land use restrictions, (ii)
36 activity and use limitations, or (iii) other forms of institutional control;
37 (H) reasonable attorneys' fees; (I) planning, engineering and
38 environmental consulting; and (J) remedial activity to address building
39 and structural issues, including, but not limited to, demolition,
40 asbestos abatement, polychlorinated biphenyls removal, contaminated
41 wood or paint removal and other infrastructure remedial activities.
42 "Qualified expenditures" do not include expenditures funded for such
43 investigation, assessment, remediation and development directly
44 through other state brownfield programs administered by the
45 commissioner.

46 (b) There is established within the Department of Economic and
47 Community Development the 7/7 program. Said program shall
48 provide incentives to businesses for redeveloping and utilizing
49 brownfields and real property that has been abandoned or
50 underutilized for ten or more years. Participants in said program shall
51 be eligible for the tax incentives provided under subsections (e) to (h),
52 inclusive, of this section.

53 (c) To be designated a 7/7 participant, an eligible owner shall
54 submit to the Commissioner of Economic and Community
55 Development an application, on forms provided by the commissioner,
56 that shall include the following information: (1) A description of the
57 real property such eligible owner seeks to utilize and the proposed use
58 for such property; (2) a written certification (A) from a licensed
59 environmental professional stating that such property is a brownfield,
60 or (B) from a municipality stating that such property has been
61 abandoned or underutilized for ten or more years; (3) a plan that such
62 eligible owner shall submit to area high schools and the regional-
63 community technical colleges that includes the anticipated workforce
64 needs for the proposed use of such property and workforce training
65 requirements in order to enable such schools and colleges to develop
66 educational training programs to meet such workforce needs; (4) a
67 commitment by the eligible owner to hire not less than thirty per cent
68 of its workforce from students enrolled in any programs developed as
69 a result of subdivision (3) of this subsection; and (5) any other
70 information the commissioner deems necessary. The commissioner
71 shall approve any application that satisfies the requirements of this
72 subsection and shall notify the Commissioner of Revenue Services
73 whenever he or she approves the application of an eligible owner.

74 (d) Any 7/7 participant that seeks to redevelop and utilize a
75 brownfield shall not be eligible for any of the benefits provided under
76 subsections (e) to (h), inclusive, of this section until after completion of
77 the brownfield remediation and the participant's notification of such
78 completion to the Commissioners of Revenue Services and Economic
79 and Community Development and the municipality in which such

80 brownfield is located.

81 (e) (1) If a 7/7 participant is a taxpayer, as defined in section 12-213
82 of the general statutes, the Commissioner of Revenue Services shall
83 grant a credit against any tax due under the provisions of chapter 208
84 of the general statutes in an amount equal to the total amount of tax
85 due under said chapter for the income year that is attributable to the
86 operations of such participant's business located on the 7/7 site after
87 the deduction of any other credits allowable under said chapter. The
88 credit allowed by this subdivision shall be available in the first income
89 year in which such participant begins business operations at such site
90 and the succeeding six income years.

91 (2) If a 7/7 participant is an affected business entity, as defined in
92 section 12-284b of the general statutes, the Commissioner of Revenue
93 Services shall grant a credit to each member, shareholder or partner of
94 such participant against any tax due under the provisions of chapter
95 229 of the general statutes, other than the liability imposed by section
96 12-707 of the general statutes, in an amount equal to such member's,
97 shareholder's or partner's amount of tax due under chapter 229 of the
98 general statutes for the taxable year that is attributable to the
99 operations of such participant's business located on the 7/7 site after
100 the deduction of any other credits allowable under said chapter. The
101 credit allowed by this subdivision shall be available in the first taxable
102 year in which such participant begins business operations at such site
103 and the succeeding six taxable years.

104 (3) Any tax credit earned under this subsection shall be
105 nonrefundable.

106 (f) (1) The taxes imposed by chapter 219 of the general statutes shall
107 not apply to any item purchased by a 7/7 participant in the first seven
108 calendar years from the date such participant initiates business
109 operations at a 7/7 site, provided such item is purchased for use in the
110 ordinary course of business at such site.

111 (2) At the time of sale, a 7/7 participant shall present to the person

112 who makes the sale a certificate to the effect that the item is subject to
113 such exemption. The certificate shall be signed by and bear the name
114 and address of the purchaser. The certificate shall be substantially in
115 such form as the Commissioner of Revenue Services prescribes.

116 (3) If a purchaser who gives a certificate makes any use of the item
117 other than the purpose set forth in subdivision (1) of this subsection,
118 the use shall be deemed a use by the purchaser in accordance with
119 chapter 219 of the general statutes, as of the time the property is first
120 used by him or her, and the item shall be taxable to such purchaser in
121 accordance with said chapter.

122 (g) There shall be allowed a credit for any 7/7 participant against
123 the tax imposed under chapter 208 of the general statutes in an amount
124 not to exceed eight and six-tenths per cent of the qualified
125 expenditures associated with the remediation of a 7/7 site that was a
126 brownfield. The credit allowed by this subsection shall be available in
127 the eighth taxable or income year, as applicable, following such 7/7
128 participant's initiation of business operations at such site and the six
129 succeeding taxable or income years, as applicable. Any 7/7 participant
130 may use such credit to offset any state tax due or otherwise payable by
131 such participant under chapter 219 of the general statutes. If any 7/7
132 participant granted a tax credit under this section is an affected
133 business entity, as defined in section 12-284b of the general statutes,
134 the members, shareholders or partners of such entity may claim such
135 credit. Any tax credit earned under this subsection shall be
136 nonrefundable.

137 (h) Notwithstanding any provision of the general statutes or of any
138 special act, municipal charter or home rule ordinance, for five
139 assessment years following the date a 7/7 participant obtained a
140 building permit to begin construction at a 7/7 site, the municipality in
141 which such site is located shall continue to use the assessed value of
142 such site as of the date such participant's application was approved
143 under subsection (c) of this section.

144 (i) The Commissioner of Revenue Services shall adopt regulations,

145 in accordance with chapter 54 of the general statutes, to implement the
146 provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016, and applicable to taxable and income years commencing on or after January 1, 2016</i>	New section

CE *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Department of Economic & Community Development	GF - Cost	145,572	291,144
State Comptroller - Fringe Benefits ¹	GF - Cost	58,142	116,284
Department of Revenue Services	GF - Revenue Loss	None	Potential Significant

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 17 \$	FY 18 \$
Various Municipalities	Grand List Reduction	None	Potential

Explanation

The bill results in an annualized cost of \$407,428 by establishing a "7/7 program" to encourage the redevelopment of brownfields with tax incentives.

The bill also results in revenue losses to the state and various municipalities, detailed below, by providing various tax credits, exemptions and property tax assessment freezes.

Administration Costs

The bill results in an annualized cost of \$407,428 by requiring DECD to administer the 7/7 program. DECD will require two staff at a cost of

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 39.94% of payroll in FY 17 and FY 18.

\$203,714 (\$145,572 salary plus \$58,142 fringe) to review and certify applications.

It is anticipated that DECD would include compliance and verification measures with any approved application in order to ensure that participants in the program satisfy the requirements necessary for the tax benefits of the program. DECD would require an additional two staff at a cost of \$203,714 (\$145,572 salary plus \$58,142 fringe). Such tax benefits are not granted until business begins on the remediated property, so these costs would likely not be incurred until FY 18 at the earliest.

State Tax Revenue Loss

The bill provides various tax credits and exemptions for participants in the program. Specifically the bill provides:

1. a nonrefundable seven year 100% corporation business tax credit or corporations and a nonrefundable income tax credit for pass through entities.
2. an exemption from the sales tax for any items purchased for the purpose of redeveloping the property.

The actual revenue loss to the state from these credits and exemptions would depend upon (1) the number of participants in the program; (2) the level of redevelopment required for the property (with regard to purchases necessary that the sales tax would otherwise apply to); (3) the level of business activity on the property once business operations begin (with regard to the business and income tax credits).

The actual revenue loss to the state is uncertain but may be potentially significant. Because such tax benefits are not until business begins on the remediated property, any revenue loss is not anticipated until FY 18 at the earliest.

Municipal Impact

The bill freezes, for five years, the assessment of property developed under the 7/7 program following the issuance of a building permit. This precludes any grand list increase a municipality would otherwise experience as a result of the cleanup and development of a brownfield.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 400*****AN ACT ESTABLISHING THE 7/7 PROGRAM TO ENCOURAGE THE REDEVELOPMENT OF BROWNFIELDS AND UNDERUTILIZED PROPERTY.*****SUMMARY:**

This bill provides a package of tax incentives to property owners after they redevelop and operate brownfields or abandoned or underutilized property. Owners must apply to the Department of Economic and Community Development (DECD) for these incentives and provide the information the bill requires, which includes a plan and a commitment to train and hire students to work at the redeveloped property.

Approved brownfield and abandoned or underutilized property owners qualify for (1) business or personal income tax credits against the income attributable to the redeveloped property and (2) sales and use tax exemptions applicable to items purchased for use there. Owners can claim these credits and exemptions for seven years. They also qualify to have the property's tax assessment frozen for five years at its pre-redevelopment value.

Brownfield owners qualify for an additional seven-year credit based on the property's remediation costs. They can apply these credits against the corporation business tax or use them to offset sales taxes. They can begin claiming the credits eight years after they began to use the redeveloped property for business operations.

EFFECTIVE DATE: July 1, 2016 and applicable to taxable and income years beginning on or after January 1, 2016.

ELIGIBILITY

The bill's "7/7 program" is open to any person, firm, limited liability company, nonprofit or for-profit corporation or other business entity that owns an abandoned or underutilized property or one where actual or potential pollution has discouraged parties from redeveloping, reusing, or expanding the property (i.e., brownfield).

An unpolluted abandoned or underutilized property qualifies under the program if the municipality where it is located certifies that it has been in that condition for at least 10 years. A brownfield qualifies if its current owner (1) is not responsible for turning the property into a brownfield by polluting it or creating the source that did and (2) did not establish, create, or maintain a source that polluted the state's waters.

DECD APPLICATION

Contents

Eligible property owners seeking the 7/7 incentives must apply to DECD, providing:

1. a description of the property and its proposed reuse,
2. a written certification that the property is a brownfield or has been abandoned or underutilized for at least 10 years,
3. a plan to train and hire local students to work at the redeveloped property (see below), and
4. any other information the commissioner requests.

The certifying party depends on whether a property is a brownfield or an abandoned or underutilized property. A licensed environmental professional must certify a brownfield's status and, as mentioned above, the municipality must certify that an abandoned or underutilized property has been in that condition for at least 10 years.

The commissioner must approve the application if it satisfies these requirements and must notify the Department of Revenue Services (DRS) commissioner if she does so.

Worker Training and Hiring Requirement

Property owners applying for 7/7 incentives must include in their applications a training plan and a commitment to hire students trained under that plan. An owner must submit the plan to the area's high schools and regional technical community colleges identifying the types of jobs that will be performed at the redeveloped property and specifying the types of training programs needed to prepare students for those jobs. The owner must also commit to hiring at least 30% of the workers at the property from among these programs' enrollees.

7/7 PROGRAM BENEFITS***Timing***

Owners participating in the 7/7 program do not qualify for its benefits until they begin business operations on the property. Brownfield owners also must complete the remediation of the property, file the necessary verification documents, and notify the municipality and the DRS and DECD commissioners to that effect.

Stage 1 Benefits

Business and Personal Income Tax Credits. Brownfield and abandoned or underutilized property owners qualify for the same types of benefits during the first seven years after they begin operations on the property. Owners organized as corporations qualify for a nonrefundable seven-year 100% corporation business tax credit against the taxes attributable to the property's operations during the taxable year. They must claim the credit after deducting any other available business tax credits.

By law, businesses organized as S corporations, limited liability companies, limited liability partnerships, and limited partnerships do not pay corporation business taxes, but their owners and partners pay income taxes on the income they derive from the business. (These businesses are commonly referred to as "pass-through entities," meaning that the income flows from the business to the owner where it is taxed as personal income tax.)

Consequently, the bill allows these business owners to claim a nonrefundable income tax credit equal to their share of the taxes attributable to the property's operations during the taxable year. They may claim the credit for seven years beginning with the year the property begins operations, and they must do so after deducting any other available personal income credits.

Sales and Use Tax Credits. Brownfield and abandoned and underutilized property owners qualify for sales and use tax exemptions for any item they purchase and use at the redeveloped property during the ordinary course of business. Like the business and personal income tax credits, the sales tax credits are available for seven years beginning with the year business operations start at the property.

Owners claim this exemption by presenting a certificate indicating that the purchase item is exempt from the sales tax. The certificate must be substantially in a form the DRS commissioner prescribes and bear the purchaser's name, address, and signature. If the purchaser does not use the item in the ordinary course of business at the property, the purchaser must pay the sales and use tax.

Property Tax Assessment Freeze. Municipalities must freeze, for five years, the assessed value of 7/7 Program-approved property as of the date it was approved for 7/7 incentives, beginning on October 1 assessment date following the date when the municipality issued the property's building permit.

Stage 2 Benefits for Remediating Brownfields

Brownfield owners receive an additional incentive, which is available eight years after the property begins operation. The incentive is a nonrefundable seven-year corporation business tax credit for up to 8.6% of the eligible expenditures the owner incurred to remediate the property.

These expenditures are those the owner incurred to investigate, assess, and remediate the property, including:

1. investigating soil, groundwater, and infrastructure contamination;
2. assessing the property's condition;
3. remediating soil, sediments, groundwater, and surface water;
4. abating contamination;
5. removing and disposing of hazardous materials and waste;
6. implementing long-term groundwater or natural attenuation monitoring;
7. implementing institutional controls, such as environment land use restrictions and activity and use limitations;
8. retaining attorneys, planners, engineers, and environmental consultants; and
9. remediating building and structural issues, including demolishing structures and abating or removing various hazardous substances.

Any expenditure funded under a DECD brownfield clean up program does not qualify for the credit.

Owners can apply the credit against their corporation business tax or use it to offset any sales and uses tax they paid. The bill specifies that a pass-through entity's owners, partners, and shareholders may also claim the credit.

BACKGROUND

Related Bill

sHB 5592, which the Finance, Revenue, and Bonding Committee favorably reported, authorizes business tax credits for remediating brownfields. The credit equals 25% of the eligible remediation expenditures, up to \$2 million. The credits are available beginning January 1, 2019 and cannot exceed \$10 million per year in FY 20-21.

COMMITTEE ACTION

Commerce Committee

Joint Favorable

Yea 20 Nay 0 (03/17/2016)